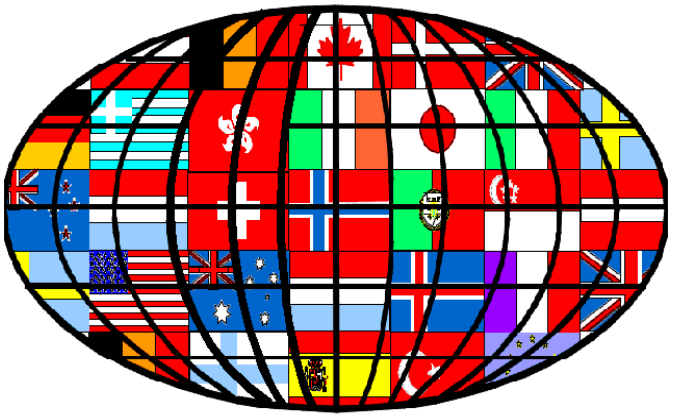
FATF-IX

FINANCIAL ACTION TASK FORCE ON MONEY LAUNDERING



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1997-1998 ANNUAL REPORT

June 1998

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ANNEX A

Money Laundering: the Importance of International Countermeasures

Address by Michel Camdessus
Managing Director of the International Monetary Fund
at the Plenary Meeting of the Financial Action Task Force
on Money Laundering
Paris, February 10, 1998

The statement at the October 1996 Annual Meetings in Washington D.C. of the IMF's Interim Committee—its highest decision-making authority—featured money laundering as one of the most serious issues facing the international financial community. This is a confirmation, if at all needed, of our wish to develop our relationship with you as the main body for dealing with money laundering, and this is also why I wished to come here today to honor your remarkable work, which has been most impressive in its scope and the speed with which it has been geared up. Let me do so by putting this question before you: why is money laundering viewed as such a serious threat to the global monetary system? And if it is a threat, what is the role that the IMF can play in assisting the work of the FATF? How can we limit this threat, which can take on such proportions that it undermines the effectiveness of macroeconomic policy?

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Macroeconomic impact of money laundering

I hardly need say that the IMF regards the anti-money laundering actions advocated by the FATF as crucial for the smooth functioning of the financial markets. While we cannot guarantee the accuracy of our figures—and you have certainly a better evaluation than us—the estimates of the present scale of money laundering transactions are almost beyond imagination—2 to 5 percent of global GDP would probably be a consensus range. This scale poses two sorts of risks: one prudential, the other macroeconomic. Markets and even smaller economies can be corrupted and destabilized. We have seen evidence of this in countries and regions which have harbored large-scale criminal organizations. In the beginning, good and bad monies intermingle, and the country or region appears to prosper, but in the end Gresham's law operates, and there is a tremendous risk that only the corrupt financiers remain. Lasting damage can clearly be done, when the infrastructure that has been built up to guarantee the integrity of the markets is lost. Even in countries that have not reached this point, the available evidence suggests that the impact of money laundering is large enough that it must be taken into account by macroeconomic policy makers. Money subject to laundering behaves in accordance with particular management principles. There is evidence that it is less productive, and therefore that it contributes minimally, to say the least, to optimization of economic growth. Potential macroeconomic consequences of money laundering include,

but are not limited to: inexplicable changes in money demand, greater prudential risks to bank soundness, contamination effects on legal financial transactions, and greater volatility of international capital flows and exchange rates due to unanticipated cross- border asset transfers.

Moreover, I should add that while, from the viewpoint of the Fund as a financial institution, I emphasize the economic costs, we must also remember the social and political dimensions of crime and related money laundering—the suffering of the victims and the overall weakening of the social fabric and collective ethical standards. All of this lends urgency to anti-laundering efforts, which attack criminal activity at the most vulnerable point—where its proceeds enter the financial system.

But does this mean that we should abandon the liberalization of the financial markets? This high-minded argument is often raised by those of our critics who believe that the IMF should halt its efforts to move its members away from control-based, towards market-based, financial systems because such systems open up possibilities for money launderers. Some have argued that keeping in place centralized credit allocation and foreign exchange control systems is necessary to identify money launderers—even if we now know that such systems are inimical to economic growth. However, I am reassured that Recommendation 22 of the FATF's 40 Recommendations is very clear on this point: "Countries should ... monitor the physical cross-border transportation of cash and bearer instruments—without impeding in any way the freedom of capital movements." Information, rather than control of the transactions, is the key to the basic "know your customer" approach of the FATF. More generally, the value of adequate information to guide the supervision of financial markets has been made very clear by recent events in South-East Asia. It is not just free financial markets that the IMF advocates, but also modern financial markets—in which there is a good measure of transparency and prudential regulation to ensure the fairness, soundness, and legality of the systems. Adoption of the FATF's recommendations is an important part of that aspect of market development. On the other hand, controls of all kinds and state interventions do not have an impressive record in avoiding money laundering, while they frequently create opportunities for corruption. Does this still hold true in a context of globalization?

Globalization and money laundering

Globalization of financial markets is one of the most important contemporary developments. What are its implications for the fight against money laundering? Clearly, globalization implies that the prevention strategies must be universally applied. All countries must participate—and participate enthusiastically—or the money being laundered will flow quickly to the weakest point in the international system. It is in this respect that the FATF plays an especially important role. It has developed a comprehensive and authoritative set of international standards for anti-money laundering policies, and procedures for their application and enforcement. Through its so-called "typologies" exercises, the FATF has pooled the intelligence of its members regarding financial instruments and institutions used by the money launderers, and this is reflected in its standards. The FATF has also been energetic in spreading its message beyond its own membership, which is comprised largely of the industrial countries. Like the IMF, it has found the "mission" format, by which groups of FATF experts visit nonmember countries, to be valuable in disseminating and promoting its policies. But this process is even more effective when the countries concerned are members of the FATF group—and can enjoy

the immediacy, "ownership," and self-evaluation that come with membership. It is therefore a significant achievement that the FATF has established, within the few years since its own formation, two regional offshoots—the Caribbean FATF, and very recently, the Asia/Pacific Group on Money Laundering. These regional bodies will play an important role in promoting the "modern" financial markets that I referred to earlier—taking into account the special features and state of development of the regional systems.

Good governance

Much has been accomplished, but much remains to be done—on your part and our own. Our efforts and your efforts cannot be separated from the global strategy of improving governance. The IMF is increasingly incorporating governance issues within its overall mandate. The IMF's Interim Committee, at its meeting in Washington in September 1996, adopted a declaration which identified "promoting good governance in all its aspects, including ensuring the rule of law, improving the efficiency and accountability of the public sector, and tackling corruption" as an essential element of a framework within which economies can prosper. Particularly in countries where there is significant participation of government institutions or officials in illegal activities—which yields proceeds that must then be laundered—the adoption of anti-laundering policies can have far-reaching effects on governance. In such countries, the IMF is actively using its available leverage to persuade the authorities to take the necessary steps. The global nature of the IMF's surveillance and technical assistance activities offers opportunities for raising awareness of the need for a robust international anti-money laundering system—pointing to the need for governments to adopt effective anti-laundering legislation, and to contact the FATF for its expert assistance in developing detection and enforcement capabilities. An important step toward full international coverage of this system will be the creation of further regional FATFs—notably for the transitional economies of Europe, and in the African and Middle Eastern regions.

Role of banking supervision

Another area of the Fund's work that has a close association with the fight against money laundering is that of banking supervision. The Core Principles for Effective Banking Supervision, approved by the Basle Committee in September 1997, state that "Banking supervisors must determine that banks have adequate policies, practices and procedures in place, including strict ?know-your-customer' rules, that promote high ethical and professional standards in the financial sector and prevent the bank being used, intentionally or unintentionally, by criminal elements." The IMF provides extensive policy and technical assistance to central banks and other national institutions around the world in building up their supervisory capabilities. This assistance has been framed around, and in fact has contributed to, the core principles. Recent developments have shown an acute need for actions to strengthen the infrastructure for prudential supervision in some countries that otherwise have relatively advanced financial markets, but where inadequate supervision remains an "Achilles heel." Top priority must be given to developing supervision of financial sectors. Such supervisory frameworks will also constitute an important means of generating close adherence to the FATF's principles. They are in the best interest not only of the international system, but also, and first and foremost, of the individual countries concerned.

In the context of banking supervision, I would like to say a special word about offshore banking centers. With the widespread elimination of exchange controls and the emergence of domestic derivative finance, the traditional role of the offshore centers has diminished. However, the proliferation of smaller offshore centers offering "tax and regulatory services," including secrecy and confidentiality, is a cause for concern. Some of the offshore centers feature prominently in international discussions of serious money laundering problems. Even with the government's best will—and that is sometimes not present—very small countries or territories tend to lack the expert resources needed to supervise large numbers of offshore banks. Caution thus dictates that licenses to operate offshore facilities in such countries should be granted only to proven institutions that are adequately supervised in their respective countries of origin. I am not sure that this is always the case, and the question is whether the international community can continue to tolerate these weak links in its organization.

Other related work of the IMF

What other aspects of the IMF's activities bear on the money laundering problem?

- First, in many countries, the IMF provides technical and policy assistance to members in drafting new central bank and commercial banking laws. This provides a good opportunity to remind countries of the need for anti-laundering provisions, such as the obligation to verify the identity of customers and to report suspicious transactions to the police or similar enforcement groups. Model laws, which draw together expertise of other countries, can provide a very useful start to this process.

- Then there are the IMF's ***research and statistical functions***. It probably does not surprise you to know that IMF staff have been active in researching underground economies and the closely related money laundering problem for almost two decades now. Good analysis is necessary to determine the scope and form of the money laundering problem, and to help direct enforcement resources efficiently to the key aspects of the problem. Good data are also necessary—money laundering is by definition a hidden activity—and therefore indicators must be drawn from a wide range of economic and social data. Although not directly usable to identify money laundering, extensive international financial and cross-border data compiled by the IMF have been used in a number of economic studies of money laundering. In fact, money laundering is now an important consideration for compilers of international data because it creates global asymmetries in the data.

- Finally, there is the IMF's work on fiscal issues, and on ***tax evasion*** in particular. Although some members' anti-money laundering legislation does not apply to the proceeds of tax evasion, there are inevitably close linkages between the two. Money that has evaded taxes must be disguised, and laundered money must be kept hidden from the tax authorities. The IMF's policy and technical work to help its members improve their tax collections therefore assists the fight against money laundering—directly or indirectly, depending on the relevant legislation in the individual country.

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I will conclude by emphasizing once again that there is no conflict between free, competitive markets and anti-money laundering regulations. On the contrary, there is considerable synergism between the two. The same oversight and supervision mechanisms that operate to ensure the smooth functioning of the market-oriented financial system make a strong contribution to the information base and the general environment of integrity that supports the FATF policies. Conversely, money-laundering seriously undermines the functioning of markets, with a consequent negative impact on economic growth. It is true that the regulatory policies to achieve both sets of aims are by necessity those of sovereign nations and cannot simply be imposed on them. But unquestionably, they deserve the support of all—the international financial and enforcement communities, as well as the individual banks, nonbank intermediaries, and regulators in each of the countries. And we as international bodies must ensure that the policies are ***perceived*** as being in the self-interest of all. It need hardly be said that the quality of our cooperation will only add to the strength of our common message!

ANNEX B

Sources of support for the forty Recommendations outside FATF

CFATF

The Caribbean Financial Action Task Force (CFATF) endorsed the original forty FATF Recommendations in the Kingston Declaration of November 1992.[1]

The current CFATF members[2] are: Antigua and Barbuda, Anguilla, Aruba, the Bahamas, Barbados, Belize, Bermuda, the British Virgin Islands, the Cayman Islands, Costa Rica, Dominica, Dominican Republic, Grenada, Jamaica, Montserrat, the Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Turks and Caicos Islands, Trinidad and Tobago and Venezuela.

Commonwealth

In October 1997, the Commonwealth Heads of Government (CHOGM) welcomed the endorsement by Finance Ministers of the updated forty Recommendations of the FATF.

The Commonwealth members, which are not members of FATF,[3] are: Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Cameroon, Cyprus, Dominica, Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, Maldives, Malta, Mauritius, Mozambique, Namibia, Nauru, Nigeria, Pakistan, Papua New Guinea, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Seychelles, Sierra Leone, Solomon Islands, South Africa, Sri Lanka, Swaziland, Tonga, Trinidad and Tobago, Tuvalu, Uganda, United Republic of Tanzania, Vanuatu, Western Samoa, Zambia and Zimbabwe.

Council of Europe

The Council of Europe Select Committee of Experts on the Evaluation of Anti-money Laundering Measures takes into account, as one of the relevant international standards, the forty Recommendations of the FATF (cf. Specific terms of reference adopted by the European Committee on Crime Problems for the Select Committee).

The membership of the Committee is comprised of the Council of Europe member States which are not members of the FATF: Albania, Andorra, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Liechtenstein, Lithuania, Moldova, Malta, Poland, Romania, Russian Federation, San Marino, Slovakia, Slovenia, "The Former Yugoslav Republic of Macedonia" and Ukraine.

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1 In the Kingston Declaration, the governments of the CFATF members also made a commitment to implement the 19 additional CFATF Recommendations. The CFATF has been conducting a typologies exercise evaluate and to determine whether any interpretative notes and/or amendments to the FATF revised Recommendations and the CFATF 19 recommendations are appropriate.

2 Aruba and the Netherlands Antilles are part of the Kingdom of the Netherlands, which is a member of FATF.

3 The Commonwealth members which are members of the FATF are: Australia, Canada, New Zealand, Singapore and the United Kingdom.

Offshore Group of Banking Supervisors

The conditions for membership of the Offshore Goup of Banking Supervisors (OGBS) include a clear commitment to be made to the FATF's forty Recommendations.

In addition, the following members of the OGBS, which are not members of the FATF or the CFATF, are formally committed to the forty Recommendations through individual Ministerial letters sent to the FATF President during 1997-1998: Bahrain, Cyprus, Gibraltar, Guernesey, Isle of Man, Jersey, Malta, Mauritius and Vanuatu.

Riga Declaration

In a Declaration signed at Riga in November 1996 by their Prime Ministers, Estonia, Latvia and Lithuania committed their Governments to the fight against money laundering. The preamble of the Declaration states, inter alia, that these governments are committed to implementing anti-money laundering measures based on the forty Recommendations of the FATF.

Asia/Pacific Group on Money Laundering (APG)

The revised Terms of Reference for the APG, adopted in Tokyo on 10-12 March 1998, recognised that the FATF's forty Recommendations are accepted international standards.

The members of the APG are: Australia, Bangladesh, Chinese Taipei, Fiji, Hong Kong,China, India, Japan, New Zealand, Peoples Republic of China, Republic of Korea, Republic of the Philippines, Singapore, Sri Lanka, Thailand, United States of America and Vanuatu.

ASEM

The Communiqué of the Asia-Europe meeting (ASEM2) held in London on 3-4 April 1998, stated that "The development of policies against money laundering has been helped by the FATF's forty Recommendations which are now the internationally accepted standard."

United Nations

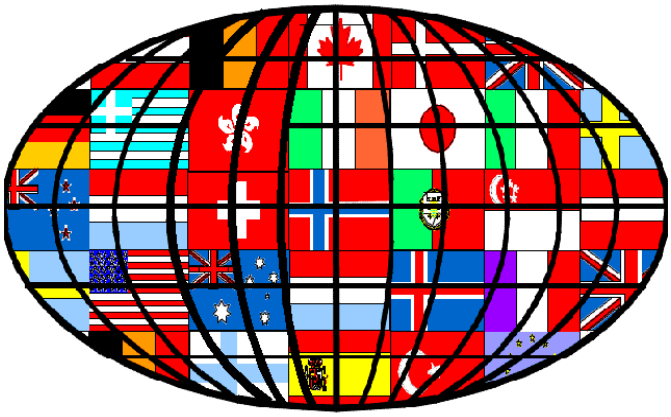
In a Declaration of 10 June 1998, the United Nations General Assembly in Special Session on the world drug problem recalled that the 1996 Resolution 5 of the United Nations Commission on Narcotic Drugs noted that "the forty Recommendations of the Financial Action Task Force .... remain the standard by which anti-money laundering measures adopted by concerned States should be judged;"

In December 1997, in Gand-Bassam (Ivory Coast), participants in the United Nations Workshop on Money Laundering recommended that States should adopt or take into account the Recommendations of the Financial Action Task Force on Money Laundering.

In March 1998, a United Nations Conference on Money Laundering awareness-raising for South and South West Asia recommended that "in drafting their legislation, States should have regard to the standards set out in the 40 Recommendations of the Financial Action Task Force on Money Laundering; ...".

ANNEX C

FINANCIAL ACTION TASK FORCE ON MONEY LAUNDERING FATF



1997-1998 REPORT ON MONEY LAUNDERING TYPOLOGIES

12 February 1998

FATF-IX REPORT ON MONEY LAUNDERING TYPOLOGIES

I. Introduction

1. The group of experts met in Paris on 19-20 November 1997 under the chairmanship of Mr. Pierre Fond, deputy Secretary-General of TRACFIN (*Traitement du renseignement et action contre les circuits financiers clandestins* -- Treatment of information and action against illicit financial circuits). The meeting took place at the Conference Centre of the French Ministry of the Economy, Finance and Industry in Paris. The group comprised representatives of the following FATF members: Australia, Austria, Belgium, Canada, Denmark, European Commission, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. Experts from non-member international organisations with observer status, namely Interpol, the International Organization of Securities Commissions (IOSCO), the World Customs Organisation (WCO) and the United Nations International Drug Control Programme (UNDCP), also attended the meeting.

2. The purpose of the 1997-1998 typologies exercise was to provide a forum for law enforcement and regulation experts to discuss recent trends in the laundering of criminal proceeds, emerging threats and effective countermeasures. While the discussions focused principally on money laundering developments in FATF member countries, the experts also sought to pool available information on prevailing money laundering patterns in non-member countries or regions.

3. In the context of work on the more targeted typologies, the present report focuses mainly on areas which still have to be mastered, such as new methods of payment, but also on the non-financial professional activities that constituted the central subject of the 1997-1998 exercise. The report also deals with the question of laundering through fund transfer companies and presents other interesting typologies noted by the experts. The final part of the report seeks to give a picture of the laundering situation in regions of the world where FATF has few or no members.

II. Analysis of specific trends in laundering in FATF countries

(i) Present trends in money laundering

4. A number of delegations stated that there had been no really new developments since the previous exercise. Drug trafficking and financial crime continue to be the chief sources of illicit proceeds. Several members cited increased cigarette and alcohol smuggling as the main origin of capital for laundering. Others cited usury, investment and VAT fraud, false invoicing and financial fraud. A shift of some laundering activities from the traditional financial sector to non-financial professions or enterprises was noted.

5. While it would not be strictly true to say that new segments of the financial sector are being used by launderers, new developments have been observed as regards *bureaux de change* and insurance companies. Manual currency exchange operations, which formerly were used essentially at the placement stage, are now being used also at the layering stage. Where insurance is concerned, relatively complex cases involving single premium contracts have recently been discovered which reveal less rapid procedures and less liquid transactions, allowing longer-term laundering that may offer a degree of safety to criminals. This complexity and diversification of laundering techniques, also to be found in the securities and futures trading sector, underscores the need for further investigative work in these areas. The other notable development in 1997 was the surge of new payment technologies in the banking and financial networks of FATF member countries.

(ii) New payment technologies

a. Present status of new technology systems and developments since the last typologies exercise

6. Although many members stressed that there had been little innovation relative to laundering, it was generally found that the new technology systems were in a phase of steady development or even rapid expansion. In Sweden, one of the country's largest banks now has 100 000 customers with an account on the Internet, with the same 24-hour services as those offered at the counter. An increasing number of banks have their own website and some have even introduced virtual counters permitting most of the conventional banking operations: consultation of accounts, transfers, etc. In some countries (Belgium, for example) these services are at present confined to domestic transactions.

b. How may the new technology systems facilitate money laundering?

7. Although no case of laundering has been detected in this sector, the experts endeavoured to show what might be the risks posed by the new technologies. The fact that no laundering operation has been identified to date may mean that the appropriate services lack the necessary means and capability of detection or else that the new payment technologies do not carry any particular laundering risks. However, this second possibility should probably be discounted in view of several features of these technologies such as the rapidity of transaction performance, the numerous opportunities for anonymity that are offered, and the risk of a break in the audit trail and withdrawal from the traditional banking system. The experts exchanged views on these questions in regard to the following systems: electronic purses, banking on the Internet and direct (distance) banking. Most members saw more inherent danger in Internet transactions than in smart cards, although other delegations stressed the dangers of the latter.

8. The vulnerability of electronic purses would be limited by the following conditions:

- limitation of the amount of any one transaction;
- distribution of cards by issuers connected to financial institutions, and linkage to a bank account;
- restriction of payment card operations to the national territory.

9. Electronic purse systems would present a laundering risk in future if their upper limits were to be raised substantially or even removed altogether. However, some of these limits are already quite high. In the United Kingdom, most smart cards have a payment capacity of between £ 100 and £ 200 (i.e. between roughly US$ 150 and US$ 320), but a few go as high as £ 500 (about US$ 820), in which case it could easily be imagined that criminals would not hesitate to practise "smurfing".

10. Electronic purse systems also present increased risks of laundering when they can be used for cross-border transactions. This risk is very real, given that the one corporation is preparing to introduce such a system, which will certainly pose problems of international co-operation as regards jurisdictional competence and the site of legal proceedings. Finally, the dangers of laundering are evident with the development of cyberpayment systems involving direct transfer from cardholder to cardholder so that there is no audit trail.

11. The Internet sites opened by duly authorised banks are not particularly disturbing in themselves. It seems natural that banks should use this new commercial technique like other business enterprises. What is clearly a problem, however, is the opening of bank sites on the Internet in breach of banking regulations. In this case, the difficulty is to bring proceedings against the perpetrator, given the international character of the Internet and the difficulty of locating a site, which may be different from the one where the illegal practices were identified, and identifying the national law that would apply. As yet only one case of this

kind has been encountered, namely that of the Antigua-based "European Union Bank" which explicitly proposed completely anonymous investments (see also paragraph 72).

12. The new payment technologies present features very similar to those of electronic funds transfers: rapidity of execution, dematerialisation and magnitude of transactions. These features pose difficulties as regards traceability of payments and law enforcement intervention only after the event. At the same time, the new technologies could theoretically provide effective means of record keeping. In practice, all that can be established at present is the fact that the necessary adaptation of controls to combat criminal activity has not kept pace with the industrialisation of transactions.

13. Apart from banking on the Internet and electronic purse systems, delegations noted that the development of banking by telephone and of casinos on the Internet could make laundering easier. The intensive use of 24-hour telephone banking services has created a significant obstacle to investigations of laundering. Direct banking implies the establishment of a distance between the banker and his client, and hence the lessening or even disappearance of the physical contact on which the traditional conception of client identification rested. While these services clearly have practical advantages for clients in terms of flexibility, they make it more difficult to detect laundering activities since the traditional methods of supervision cannot be applied. As regards information available on the Internet, casinos in several countries offer complete anonymity to potential gamblers, the latter placing their bets by way of credit card. The risk of laundering is even more patent if the casinos in question also manage the accounts of their Internet customers.

c. Implementation of countermeasures

14. Before introducing any countermeasures, law enforcement authorities should make certain that such measures will be of a nature compatible with the real risks and the constraints imposed on financial institutions and should engage in consultations with the private sector for this purpose. If one is to avoid the emergence of a two-speed system of anti-laundering action, with the traditional banking system on the one hand and the new technology systems on the other, controls will havc to be adapted to the latter.

15. A number of countries have set up task forces on this question: in Australia, following a 1996 report by AUSTRAC (Australian Transaction Reports and Analysis Centre) to the Commonwealth Law Enforcement Board, a research group on electronic trading has been established to provide advice to the Board and Government. In Belgium, a task force on the Internet has been set up by the Minister of Justice, notably to study prevention and indictment of all forms of criminal action committed on the network. In Sweden, a government commission is currently working on various problems connected with electronic money, including money laundering, and has produced a partial report. The final report is scheduled for the end of July 1998.

16. Of the different approaches envisaged, members decided to consider how the existing laws could be adapted as opposed to the introduction of new legislation. The need to apply different policies according to type of transaction was also mentioned. Finally, the importance of international co-operation in this area was stressed.

17. In more concrete terms, particular consideration might be given to the following measures:

- making not only issuers but also distributors of instruments linked with the new technologies subject to anti-laundering legislation, given the shift of laundering away from the financial sector and the fact that the agents of these systems are not all financial institutions;

- authorisation and surveillance of issuers of new technology products, since anti-laundering measures are better complied with when they apply to a regulated and controlled sector;

- a possible adjustment of existing anti-laundering measures, notably as regards client identification and the audit trail, so as to enable issuers of new technology products to help the competent authorities to detect the circulation of anonymous instruments of payment for criminal purposes.

(iii) Funds transfer enterprises or activities (formal and informal)

a. Brief overview of the sector

18. In most FATF countries, international funds transfers are performed essentially by the banks. However, there are other possibilities of transferring funds abroad through money remitters, who normally provide a valid and legitimate financial service. Enterprises performing this activity receive from their clients cash sums which are transferred to designated beneficiaries against payment of a commission. Money remitters traditionally serve the non-banking segment of the population, notably new immigrants, permit-holding or clandestine foreigners or any other person not having a bank account. Funds are often transferred to the least advanced regions of the world where no proper banking services exist.

19. The different operations may be classsified as follows:

- funds transfer companies possessing separate networks (like Western Union and Money Gram);
- money transfer systems connected with clandestine banks (underground banking);
- money transfers by way of the collection accounts of foreign banks (accounts opened with subsidiaries or branches, or even representative offices of foreign banks which transfer the earnings of immigrant workers to their countries of origin);
- international money orders.

b. Use of international funds transfer for laundering purposes

20. The law enforcement services of different member countries have discovered an increasing number of suspicious transactions involving money remitters. The authorities of one member estimate that this is one of the principal laundering methods used in their territory. In a member country, the average sum transferred abroad is about US$ 4 900 and these transfers are often made under false identities. In an Asian member country, a money remitter operating without authorisation from the competent ministry transferred a total of about US$ 93 million to China over a period of three years. A member has established that Colombian cartels use certain money remitters operating in its territory to launder their proceeds from drug trafficking.

21. The risks of laundering are not confined to the funds transfer networks serving ethnic groups, they may also apply to official networks like those of the postal service. For example, the authorities of a Scandinavian country have noted a steep increase in international money orders to the countries of ex-Yugoslavia. In a member country, the mail services are being used to send packages containing large cash sums and also drugs anonymously.

22. Other laundering activities through funds transfer systems involve *bureaux de change*. The authorities of a member have identified several proprietors of exchange offices and remittance services who have links with drug traffickers and receive sums from them for transfer to other parts of the world. Another member noted that remittances on behalf of ethnic groups may also go through *bureaux de change*, although performance of these notional transfers by manual exchange operations is regarded as an illegal banking activity.

23. On the whole it is considered that systems based on trust rather than on a professional and legal foundation favour anonymity and make it difficult to identify the actual recipient of funds. Another

problem, mentioned by Australia, is the insufficiency of hard evidence of laundering, although numerous investigations have been opened in this sector.

c. Countermeasures in place or planned

24. The dangers of laundering in the funds transfer sector have been taken seriously by all countries. Many have already introduced a set of measures or about to do so, even though the professions or activities in question are not specifically targeted by the present FATF Recommendations. A first approach has been to bring funds transfer companies within the scope of anti-laundering legislation (as in Australia, Belgium and Germany). In the Netherlands, money remitters will be made subject to the requirement to report unusual transactions and a system of surveillance will be introduced. In Spain, the competent authorities are preparing a decree regulating the activities of offices handling international funds transfers, which are already covered by the general rules regarding prevention of laundering in the financial system. The decree will serve to tighten supervision of the activities concerned. In February 1997, the Hong Kong police published specific directives for funds transfer corporations and *bureaux de change* advising them to adopt anti-laundering measures similar to those of the banks, as regards client identification, record keeping and reporting of suspicious transactions. In a number of countries, the international postal money order services, too, are subject to the anti-laundering law (as in France).

25. In Germany, the fact that suppliers of funds transfer services are subject to the anti-laundering law makes it possible also to cover the case of foreign banks' representative offices that perform transfers. The banking supervision authorities plan to introduce supplementary measures for money remitters, such as the lowering of client identification thresholds to DM 5 000 (about US$ 2 700), the requirement to supply monthly statistics on the number of transfers and their amounts, and additional measures as regards identification record keeping. In the Netherlands identification thresholds have also been lowered, from NLG 10 000 to 5 000 (approximately US$ 4 800 to US$ 2 400). While the lowering of these thresholds is an appropriate measure, there is still the question of the effects which this may produce, notably an increase in "smurfing" operations. Consequently, it is necessary to think about ways of detecting such activities. It is also important to ensure better identification of the recipients of funds, or at least to be able to detect any convergence of transactions on a sole operator located abroad.

26. As regards transfers made by agencies of international corporations like Western Union and Money Gram, these are covered by anti-laundering law in many member countries. In Switzerland, for example, transfers made through Western Union will be subject to the new law on money laundering as of 1 April 1998, and notably to the reporting requirement. In Sweden, a constructive dialogue appears to have begun between the NFIS (National Financial Intelligence Service) and Western Union representatives. However, in some countries, the sub-agents and agents of Western Union operating through "kiosks" are not covered by the anti-laundering regulations.

27. Several members pointed out that the introduction of measures should be reinforced by action to alert the professions concerned. In the United Kingdom, the National Criminal Intelligence Service (NCIS) is seeking to make fund transmitters aware of their obligations under anti-laundering law so that more information will be forthcoming from this sector. In Hong Kong, the police services have recently made on-the-spot visits to explain the content of the directives they have issued to money changers and fund transmitters.

28. Finally, there are more specifically targeted controls like the United States GTO (Geographic Targeting Order). These orders impose, relative to the Banking Secrecy Act, stricter requirements on financial services providers as to disclosure of suspicious transactions and the keeping of records for a limited period and in a specific geographic area. A GTO of 7 August 1996 was applied to 12 money transmitters and 1 600 agents in the metropolitan area of New York, requiring them to report all cash transfers of over US$ 750 to Colombia. The initial order, valid for 60 days, was renewed six times so as to terminate in October 1997. Its coverage was also extended to 23 licensed transmitters and about 3 500 agents. The result of the New York GTO was an immediate and spectacular reduction in the flow of drug

trafficking proceeds to Colombia (down 30 per cent in volume). About 900 money transmitters ceased their activity and some of them were even arrested.

(iv) Other observed trends in laundering

a. The insurance sector

29. The written submissions and presentations made at the meeting of the group of experts revealed some diversification of laundering activities in other segments of the financial sector, like insurance. A member noted the use of single premium insurance contracts to conceal illicit income. In two other member countries, reports of suspicious activities from the insurance sector reveal the practice of early redemption of capital invested, in spite of possible penalties.

b. Money changing

30. The *bureaux de change* sector continues to be a very important link in the laundering chain: cash proceeds from drug trafficking and other criminal activities often transit through this sector. For some years now the authorities of a member have noted a shift of certain very large-scale exchange transactions from the banks to small *bureaux de change*, and this development, which is the direct consequence of the rules of vigilance introduced by the banking sector, is becoming more pronounced. Thus a report of suspicious activity from a money changer implicated two individuals who had jointly made a US dollar/local currency exchange transaction amounting to US$ 5 million. The unusual feature of this transaction was that used dollar bills were changed into local notes which were then utilised, on the same day and in the same *bureau*, to purchase unused dollar bills. In another member country an investigation revealed a case of laundering in which an exchange office had changed more than US$ 50 million at a foreign bank over a period of 13 months (see Case No. 6).

31. In an European FATF member, during the first nine months of 1997 a total of 92 actions were initiated against 289 persons having used *bureaux de change* for transactions amounting in all to about US$ 45 million. In another member country, the law enforcement services have observed a strong and growing tendency for *bureaux de change* to be used by criminal organisations. Two main techniques are reported at present: the changing of large amounts of criminal proceeds in local currency into low bulk continental currencies for physical smuggling out of the country, and electronic funds transfers to offshore centres. Underground exchange mechanisms are obviously also being widely used for money laundering purposes (see Case No. 8).

32. With regard to exchange transactions, the member countries of the Economic and Monetary Union should consider whether existing anti-money laundering provisions are appropriate to the exceptional circumstances resulting from the period of conversion of national currencies to the Euro which will start in four years.

c. Cross-border transportation of cash and electronic funds transfers

33. Hard evidence of the growth and sophistication of cross-border transportation of cash was supplied by several members (see Case No. 3). In Spain, the government is considering expanding the current obligations to declare the import of cash at the customs.

34. Two other members pointed out that electronic funds transfers feature very often in layering operations. One of the most popular techniques is simply to transfer illicit funds through several different banks in order to blur the trail to the funds' source. Another method is to make transfers from a large number of bank accounts, into which deposits have been made by "smurfing", to a principal collecting account which is often located abroad in an offshore financial centre. In this regard, the adequacy of present anti-laundering measures can be questioned: to obtain the relevant information concerning an

international electronic transfer made in one day, the investigating services have to wait an average of about two years for the results of an investigation by jurisdictional delegation.

d. The gold market

35. The FATF experts considered for the first time the posibilities of laundering in the gold market. The scale of laundering in this sector, which is not a recent development, constitutes a real threat. Gold is a very popular recourse for launderers because of the following characteristics:

-- a universally accepted medium of exchange;
-- a hedge in times of uncertainty;
-- prices set daily, hence a reasonably foreseeable value;
-- a material traded on world markets;
-- anonymity;
-- easy changeability of its forms;
-- possibility for dealers of layering transactions in order to blur the audit trail;
-- possibilities of double invoicing, false shipments and other fraudulent practices.

36. Gold is the only raw material comparable to money. Although other precious metals and diamonds are used in cases of recycling, gold is preferred by launderers. Moreover, the drug routes, especially for heroin, coincide fairly clearly with the gold routes. The "hawala" alternative banking system, which is widespread in South Asia and the Middle East, is also connected with the gold circuits. The investigating services are having the greatest difficulty in piercing this system which facilitates both currency exchange and the purchase and sale of gold.

37. Two members instanced specific legislation to combat gold market laundering. In Australia, gold traders are subject to the requirements of client identification and disclosure of transactions in excess of A$ 10 000 (about US$ 6 700). In Italy, a procedure, similar to the US Geographic Targeting Order, requires all the financial institutions in a town where gold was refined to disclose all relevant ransactions.

38. The question of laundering in the gold market most certainly needs to be examined in greater depth. It would be extremely useful to continue to study it in future typologies exercises as a specific subject, after collecting written submissions on the different regulations in force in member countries.

III. Money laundering and non-financial professions

39. For the first time FATF has made an in-depth analysis of laundering in the non-financial sector, treating this question as a special subject in the 1997-1998 typologies exercise. The method used was to assemble all the facts indicating involvement in money laundering and the magnitude of the problem, together with the existence of specific or general countermeasures, on a strictly sectoral basis.

40. Given the development of anti-laundering legislation in many countries, criminals are having increasing recourse to intermediaries other than those of the banking and financial sectors. In view of this trend, governments have started to tackle the problem. In one member country, a recent study has identified a number of professions in which laundering activities are intensively pursued (dealers in motor vehicles, boats and real estate, lawyers and accountants, lotteries, horse races and casinos). In the framework of the European Union, a high-level task force on organised crime has called for measures to be developed to shield certain vulnerable professions from influences of organised crime in general and recommends that the obligation in the money laundering Directive to report suspicions should be extended to persons and professions outside the financial sector. Article 12 of the Directive already provides a basis for such extension, although delicate questions such as the professional secrecy of certain professions, will have to be addressed.

41. Several countries are in the process of enacting legislation to bring non-financial professions under their anti-laundering regimes. In Belgium, an extension of the scope of the Act of 11 January 1993 to bailiffs, notaries, company auditors, external auditors, real estate agents, casinos and funds transport firms is the subject of a Bill for the implementation of the government's plan of action against organised crime. In Finland, a new law on prevention and detection of laundering will require casinos, betting offices and real estate agents to identify their clients and report suspicious transactions. In Italy, the provisions of the anti-laundering Act No. 197/91 will soon be extended to companies practising activities particularly liable to be used for laundering purposes (casinos, lawyers, accountants, jewellers). In Sweden, a Bill is under consideration for the introduction of reporting requirements, but not a complete incorporation of the non-financial professions into the anti-laundering regime.

42. Even in countries where the non-financial professions are already covered by anti-laundering legislation, attempts are being made to improve existing measures. For example, in the present state of law of one member, non-financial professions are required to report to judicial authorities the facts of laundering of which they have knowledge, as opposed to simply their suspicions. This provision, which has yielded few results (about ten cases in seven years), greatly diminishes the effectiveness of anti-laundering action, for in many files it is clear that the suspicious nature of the operation may have been discovered much earlier, in particular by the real estate agents or notaries concerned. The possibility of aligning the obligations of non-financial professions connected with real estate transactions (agencies, notaries) with those of financial institutions is therefore being studied.

(i) Lawyers, notaries and acountants acting as advisers or financial intermediaries

43. Several members cited cases involving lawyers. In one member country, one of the laundering techniques used is to deposit cash in solicitors' client accounts, in several amounts under about US$ 6 700, and then use the total credit balance for a real estate investment. In another member, a recent enquiry revealed how a lawyer could use a client account to launder the proceeds from a credit fraud offence. The funds were paid into the lawyer's client account, then coverted by him into cheques drawn on a bank of another country which were subsequently cashed by a correspondent designated by the lawyer concerned.

44. In one member country, thanks to information transmitted to the public prosecutor's office in real time by a local banking establishment, the criminal investigation department was able to arrest *in flagrante delicto* a lawyer from another country who had appeared at the counter of the bank concerned to withdraw the money in his correspondent's account by way of a power of attorney in due form. Investigations with foreign authorities confirmed that the acount holder was being held in their country on charges of large-scale drug trafficking. The account holder's credit balance amounted to about US$ 600 000.

45. In one member country, a solicitor transferred funds to a colleague, explaining that they were the proceeds from a sale of assets bequeathed by an individual in his will. The second solicitor was not satisfied with this explanation and reported his suspicions. The subsequent enquiry confirmed these suspicions about the legitimacy of the purported asset transactions.

46. In one member country, a prominent attorney performed services for a whole clientele of launderers. A client with US$ 80 million, proceeds from an insurance fraud, used the lawyer to transfer the money to financial institutions in countries where there are few or no anti-laundering regulations. The attorney opened accounts in various banks under false names of individuals or corporations. The illegal funds were placed in the form of cash or cheques in banks in the member in question, then wired to the different accounts controlled by the attorney. It should be noted that because of his professional repute the domestic banks never considered it necessary to look more closely at the nature of the transactions in question (see Case No. 4).

47. Accountants may also be involved in various cases of laundering. In one member, an accountant was recently sentenced to three years' imprisonment for laundering drug money. He had received 10 per cent commission on a total sum of about US$ 700 000 in profits of criminal origin. At the same

time it has to be acknowledged that accountants can also be useful sources of information in anti-laundering action. Technically, they are among the professionals best fitted to detect the fraudulent mechanism that may underlie an unusual transaction. Accountants and auditors are very present in the business sector, and less directly in charge of their clients' interests than lawyers. In France, for example, the association of accountants, concerned about its reputation and aware of its responsibilities in combating the scourge that criminal money has become, has contacted the authorities to see what contribution it might make. Needless to say, the inclusion of accountants in the scope of anti-laundering legislation can be effective only if they become familiar with the typologies of criminal money recycling.

48. The need for relevant training of this profession, but also of lawyers and notaries, was stressed by several delegations, even in the case of countries where an anti-laundering system is already in place. In the United Kingdom, solicitors and accountants respectively have to comply with professional codes of conduct and guidelines, but to date they have made very few declarations of suspicion. In the Netherlands, notaries are required to check the identity of their clients and that their services are being used for legal purposes. A list of relevant indicators has been issued by the association of notaries. If the checks do not confirm legality, the notary must refuse to provide his services.

49. Because of their central position in the legal system applying to real estate transfers and other important transactions, and in some countries the setting up of corporations, notaries are liable to experience instances of laundering. Their involvement may range from simple acquiescence to facilitation or even active participation in the laundering operation with full knowledge of the facts. In one member country, nationals of a Central European country were reported for having, on numerous occasions, paid cash sums into the account of a notary up to a total of about US$ 700 000. Another case revealed a swindle perpetrated by a European company for the benefit of another company located in a tax haven, the deal being founded on a contract signed in due form in the presence of a notary. The sum in question amounted to about US$ 840 000.

50. The problem confronting legislators in many countries is to establish a clear distinction between the financial intermediary and advisory activities not only of notaries but also of lawyers. In Switzerland professionals offering financial services will be subject to the money laundering legislation as of 1 April 1998. They will then have two years in which to register with a self-regulatory body.

51. The examples cited in this section of the report, both as to cases and as regards countermeasures, are applicable only to the individual countries concerned, since the definitions of the legal professions vary greatly from one country to another. It would therefore be useful to have a complete picture of the anti-laundering legislations applicable in the different member countres, bearing in mind that the responses to the new annual self-assessment questionnaires should also yield some interesting information in this regard.

(ii) Shell corporations and company formation enterprises

52. Shell corporations, in countries where these exist, continue to be a widely used tool for recycling illegal money (see Case No. 2). In this connection two delegations provided a good example of a case that also involved a company supplying secretarial services (see Case No. 5).

53. The role that company formation enterprises might play was mentioned by the United Kingdom. NCIS has therefore recently published a set of guidelines for such enterprises, some of which are covered by the anti-laundering regulations.

(iii) Casinos and gambling

54. In this other part of the non-financial sector, cases of laundering abound. In one member country, methods reported during the past year include the purchase and repayment of gambling tokens in multiple amounts of less than about US$ 6 700, the receipt by casino clients of winner's cheques made out in the name of third persons, and the use of tokens for purchases of goods and services and for drug purchases.

Other delegations cited different cases involving casinos, gaming businesses and various lotteries, including horse-racing. These entities provide ample opportunities for laundering, given the amount of cash that changes hands there.

55. Casinos are the site of the first stage in the laundering process, i.e. converting the funds to be laundered from banknotes (circulating currency) to cheques (bank money). In practice the method is to buy chips with cash and then request repayment by cheque drawn on the casino's account. The system can be made more opaque by using a chain of casinos with establishments in different countries. Rather than request repayment by cheque in the casino where the chips were purchased with cash, the gambler says that he will be travelling to another country in which the casino chain has an establishment, asks for his credit to be made available there and withdraws it in the form of a cheque in due course.

56. Gaming businesses and lotteries, too, are being used increasingly by launderers. One member has evidence of multiple financial transactions made by the same person by way of cheques drawn on gambling agencies: loto, horse-racing and also casinos. This suggests that circuits have been set up to organise systematic buy-back of winning tickets from their legitimate holders. Another laundering technique connected with horse-racing and gaming has emerged. In this case the person will actually gamble the money to be laundered, but in such a way as to be reasonably sure of ultimately more or less recovering his stake in the form of cheques issued by the gambling or betting agency and corresponding to perfectly verifiable winnings from gaming. This method is much more reliable than the previous one, since the police investigation service, once it has verified the reality of the gaming operation and the person's winnings, will in principle have a great deal of trouble in going further and identifying the source of the money staked.

57. Countermeasures specific to the gambling sector, mainly for casinos, have been enacted by some FATF members. The closing of casinos in Turkey, which took effect on 10 February 1998, is anticipated by that country to contribute to anti-money laundering efforts as well. In the Netherlands, casinos belong to a public establishment named Casinos of Holland. Casinos are covered by the anti-laundering legislation, and only winnings from gambling are accepted for electronic transfer to a bank account. This arrangement might prove effective in countries where casinos offer a wide range of financial services, as in the United States. Other examples of countermeasures are to be found in the United Kingdom where emphasis is being placed on the importance of client identification, the concept of gamblers' "profiles" and the need to involve all the authorities concerned. Since the gambling sector is not covered by anti-laundering regulations, a code of conduct for the gaming profession has been adopted.

58. In the United States, comments have been requested on a new declaration form for casinos entitled SARC (Suspicious Activity Report by Casinos), which is already in use in the State of Nevada. In Belgium the introduction of a requirement for casinos to report to the CTIF (*Cellule de Traitement des Informations Financières* -- financial information processing cell) is envisaged. Casinos and the gambling sector in general should therefore constitute a genuine subject of concern for FATF, given that it is an expanding industry which is central to the development of tourism in many countries. Gambling is also becoming increasingly international in scale. Finally, the consequences of the growth of non-casino types of gambling and their development on the Internet (e.g. Bingonet) should be examined very carefully.

(iv) Other non-financial professions, including real estate agents and sellers of high-value objects

59. The real estate sector is now fully within the sphere of money laundering activities. Investment of illicit capital in real estate is a classic and proven method of laundering dirty money, particularly in FATF countries enjoying political, economic and monetary stability. Laundering may be effected either by way of chain transactions in real estate to cloak the illicit source of funds, or by investment in tourist or recreational real estate complexes which lend an appearance of legality.

60. Numerous cases of laundering were cited by the experts. One of the methods used is to buy and sell properties under false names. In a recent case presented by one member, two criminals were arrested for laundering about US$ 270 000 through a real estate agency. One member was apprised of an interesting case involving a real estate agent located in an offshore centre and a notary (see Case No. 1). In another member, many suspicious real estate transactions take place in the south and involve amounts of the order of several million francs. In the Netherlands, thanks to the vigilance of banks, unusual transactions involving real estate agents have been reported to the MOT (Office for reports of unusual transactions). The government of that country is currently consulting the profession on its possible contribution to anti-laundering action.

61. In a Scandinavian country, a recent case was based on information concerning a previously convicted drug trafficker who had made several investments in real estate and was planning to buy a hotel. An assessment of his financial situation did not reveal the source of his income. Following his arrest and further investigations, he was sentenced for drug trafficking and money laundering to seven and a half years' imprisonment and about US$ 4,4 million was confiscated (see Case No. 7). In another Scandinavian country, despite a strict system of recording all real estate transactions, the authorities have identified a few cases involving low-interest loans of suspect origin obtained abroad for purposes of investment in that country.

62. Finally, sellers of high-value objects like artworks are unquestionably a significant presence in laundering activities. Within the European Union, systems of national heritage protection have been adopted, particularly in France where exports of cultural goods require prior authorisation by the Ministry of Culture. In the previously mentioned case concerning real estate, another part of the drug profits had been laundered by the director of a art museum from another country, who received about US$ 15 000 for producing false certificates of sale of art objects.

63. Another case, reported by a member, concerns the use of a rather special technique whereby a financial swindler on a international scale made one of his companies available to a major trafficker and launderer seeking to establish a source of funds. The latter would make periodic cash remittances to the money manager/swindler, who paid them into his company's accounts. Transfers were immediately made to Monaco and to other banking establishments in this member, in company accounts of which the launderer was the economic beneficiary. The purpose put forward to justify these transfers was the purchase of paintings by a master artist (Goya), either as payments on account or as settlements. The paintings were in fact fakes and, moreover, were never shipped. The payments in question were for amounts on the order of about US$ 1 million. With this technique it is obviously possible to launder extremely large amounts of illicit money.

64. As regards these latter categories of professions in the non-financial sector, existing legislation appears even more disparate than for the legal professions or gambling activities. Where reporting requirements exist, very few disclosures are forthcoming from these professionals, as pointed out by several delegations. This is another area where intensive efforts will have to be made to alert professionals to suspicious or unusual transactions through appropriate education.

IV. Assessment of world trends in money laundering

65. Money laundering is obviously not a problem restricted to FATF countries. Thanks to the implementation of countermeasures in those countries, the experts have been able to make the relatively detailed analyses that figure in the preceding sections of this report. The information available on money laundering in non-member countries is much less comprehensive; consequently, the following assessment by FATF of world trends in laundering does not claim to be exhaustive.

(i) Asia/Pacific

66. Sources of information on laundering activities in this vast region of the world are fairly scarce. The situation will be considerably improved when Interpol, in co-operation with the US agency FinCEN (Financial Crimes Enforcement Network), produces its reports on individual Asian countries. It should be noted that the Interpol group FOPAC (*Fonds provenant des activités criminelles* -- proceeds from criminal activities) has already produced similar reports on the Central and Eastern European Countries, and that the second series on Asian countries has been given high priority.

67. Two delegations considered that there were no really new laundering developments in this part of the world. The main factors observed in previous typologies exercises are still present. Thus in South Asia and India money laundering is still linked with drug trafficking and is undoubtedly facilitated by the parallel remittance systems known as “hawala” and “hundi”.

68. In South-East Asia the countries that seem to warrant particular attention are Indonesia and Malaysia. Given the absence of appropriate legislation and the regime of strict bank secrecy in Indonesia, money laundering is only part of the financial crime that prevails there essentially in the shape of large-scale fraud and corruption. Several other countries in the region, notably Malaysia, offer numerous features attractive to launderers: provision of a wide range of financial services, facilities for setting up trust companies and offshore structures. Bank fraud is still a very important source of money for laundering.

69. In the Pacific region, Vanuatu is featuring increasingly in the laundering circuits. The offshore legislation in place there has created a favourable climate for laundering and the country’s financial institutions have been cited in several cases.

70. Generally speaking, it would clearly be desirable to have more information on the Asia/Pacific region. FATF members therefore greatly welcomed the fact that the region’s new anti-laundering group, set up at a symposium on money laundering in Asia and the Pacific at Bangkok in March 1997, would shortly be conducting its own typologies exercise. This initiative is a follow-up to the earlier workshops on Disposal of Proceeds of Crime, Money Laundering Methods organised by the FATF Asia Secretariat and Interpol in Hong Kong in 1995 and 1996.

(ii) Central America, South America and the Caribbean Basin

71. All these parts of the world continue to attract money laundering activities. As regards the Caribbean, FATF members welcomed the activities conducted by the Caribbean Financial Action Task Force (CFATF) in respect of typologies. The approach used by the latter is somewhat different from that of FATF, but it should nevertheless give rise to some very useful and interesting work, as regards both analysis of regional trends and assessment of the countermeasures to be adopted. The CFATF typologies exercise is phased over a number of years. Since February 1997 the CFATF experts have studied the forms of money laundering in domestic financial institutions and in the gambling sector. Future meetings will address the following themes: offshore financial establishments and international business corporations, financial institutions and cybermoney.

72. Laundering in the Caribbean region continues to be a serious problem and appears to concern the following countries in particular: Antigua, the Dominican Republic and St Vincent and the Grenadines. Suspect operations have also been detected in the French overseas departments, particularly in the areas of exchange and gaming. Russian organised crime operating out of Miami and Puerto Rico continues to be active in forming front companies all over the region in order to launder illicit profits. A case in point here is the European Union Bank set up in Antigua and famed as the first offshore bank operating via the Internet. The two Russian founders absconded with the deposits and subsequently the bank failed and was closed down in August 1997. Free trade zones, including those in Aruba and Panama, continue to be a target for money launderers using the black market peso exchange system to purchase and smuggle goods into Colombia (see Case No. 8). The Aruban and Panamanian governments are to be commended for taking aggressive steps to address this difficult problem.

73. The Dominican Republic and Jamaica were likewise mentioned in connection with money laundering circuits. In the United States, Dominican launderers use fund transfer companies to send sums not exceeding US$ 10 000 to the Dominican Republic under false names. Consequently the US Department of the Treasury this year issued a Geographic Targeting Order which requires the reporting of all transfers of over US$ 750 from Puerto Rico and the New York Metropolitain area to the Dominican Republic. In Jamaica, a recent case of money laundering concerned an offshore bookmaking operation by telephone for a total amount of several million dollars. Where no specific measures regarding cross-border currency movements exist, cash transportation seems to be a common method of laundering.

74. The nations of Latin America also continue to be affected by laundering of illegal funds, essentially the proceeds from drug trafficking. In Mexico numerous anti-laundering measures have been enacted in the past year. Banks are now required to report suspicious transactions to a central agency for financial information. In spite of these efforts, money laundering is still a problem to be taken very seriously, especially now that the Mexican drug cartels have parted company with their Colombian counterparts and have acquired some predominance in the region. One of the most favoured techniques continues to be outbound currency smuggling, along with electronic transfers, Mexican bank drafts and the “parallel” peso exchange market. Corruption remains the chief impediment to Mexico’s anti-laundering efforts.

75. Another Central American country experiencing a growth of laundering activities is Costa Rica, notably by way of large-scale currency smuggling and investment by Colombian cartels in the tourist real estate sector. In Guatemala and Honduras laundering potential continues to increase in the absence of appropriate legislation. In Panama the target of launderers remains the Colon Free Zone. It should be pointed out, however, that anti-laundering measures applicable to the banking sector have been extended to the Zone. In Colombia, billions of dollars in drug money are being laundered through the “parallel” peso exchange market, which in fact is run by drug traffickers (see Case No. 8).

76. Within the framework of OAS (Organization of American States) the Inter-American Drug Abuse Control Commission (CICAD) has decided to launch its own typologies exercise through its group of experts on money laundering. FATF members welcomed this initiative, which will cover nearly all the countries of South America. Many countries in that region have recently introduced anti-laundering legislation following the Summit of Americas Ministerial Conference of December 1995. Despite these efforts, drug trafficking and money laundering are still major problems in this part of the world. It is therefore encouraging to see that the next Summit of Americas, to take place in Santiago, Chile in April 1998, will again address the subject of money laundering as a priority.

(iii) Middle East and Africa

77. In the absence of proper regional anti-money laundering groups, information on laundering in these areas is extremely limited. But numerous factors which assist laundering are present in the Gulf States with the international finance centres in Bahrain and the United Arab Emirates (in particular Abu Dhabi and Dubai), the hawala “banking” system and free trade zones. It should be noted, however, that the Gulf Co-operation Council (GCC) has recently launched an evaluation of the anti-laundering measures

adopted by its members (United Arab Emirates, Oman, Saudi Arabia, Qatar, Bahrain and Kuwait) which will provide a picture of the status of legislation in the region.

78. In the Near East the lack of anti-laundering legislation in Lebanon remains a matter of significant concern to FATF. It is hoped that a bill will soon be passed into law in Israel, where the authorities are facing general problems with organised crime and need to tackle the dangers of laundering in the diamond industry. In Cyprus the authorities have vigorously built up a comprehensive anti-laundering scheme since relevant legislation was passed in April 1996, and a unit has been established to receive suspicious transaction reports from banks. FATF experts visited Nicosia in September 1997 and noted the resolute and praiseworthy efforts being made by the Cypriot authorities to counter money laundering even if the name of Cyprus still appears in cases of laundering transactions at the layering stage.

79. Crime groups are increasingly turning to sub-Saharan Africa to conduct their activities, including money laundering. A few countries have begun to respond by introducing legislation, but significant obstacles have still to be overcome, notably the lack of resources available to operational services in Africa. One trend observed in West Africa concerns the use by organised crime of bank accounts of commercial businesses. Illicit funds can be moved via undercover banking systems and evade exchange control regulations. All FATF members acknowledge that the chief problem in West Africa continues to be fraud by Nigerian organised crime. It was accepted that this problem, which has been going on for too long, would merit appropriate international collective action. Nigerian organised crime is also active in South Africa, which is progressively becoming an entry point to the rest of the continent for crime groups.

(iv) Central and Eastern Europe

80. The East European countries continue to be a significant and indeed growing concern for the European members of FATF. The greatest difficulty concerning funds connected with individuals or companies in Central and Eastern European countries is in clarifying their source, which is very often impossible. The frequent use by some CEEC nationals of expertly forged identity papers, designed to get round strict application of the principle of customer identification by financial institutions, was noted. In addition, transcription from Cyrillic to Roman is often used to change identities, or provide multiple identities. Cases of dual nationality (Russian/Greek or Russian/Israeli, for example) are frequent, and hold similar potential for disguising true identity. Armenian or Georgian nationals claim Greek origins. The most significant problem in transactions with Russia is that the true beneficiary is not known.

81. As in previous years, the experts noted numerous cases involving Russian organised crime and from other members of the Commonwealth of Independent States. Most of the shell companies operating in one member are carrying on quite legitimate business, but their finance comes from fraud and criminal activities in Eastern Europe. A competent unit of this country, which has detected growing sophistication at the layering stage, with substantial use of offshore companies, is going to follow developments in this area very closely from 1998. The refinement of the methods used by organised Russian crime groups was also noted by the police of one member in a case involving letters of credit issued by a Russian bank for a total of US$ 100 million. Very substantial sums are involved in cases relating to nationals of Central and Eastern European countries or to CEEC-related financial transactions. One case detected in another member concerned US$ 13 million overall.

82. But there are other problem countries as well, notably the countries of the former Yugoslavia, as was noted by one member, which considers this to be the most serious problem that it comes across, in particular in relation to drug trafficking. In one member, a case covering a wide range of currencies (the equivalent of around US$ 300 000 involved Serbian immigrant workers. In Croatia, the authorities face a significant problem with the establishment of organised groups specialising in particular types of crime. These structures provide links with crime groups in Italy or Germany, and those operating in Russia, Serbia and Bosnia.

83. In the Black Sea region, only two countries (Greece and Turkey) belong to FATF. Their closeness to fifteen countries of the former Soviet Union raises a particular problem with regard to laundering. Another problem encountered by the banks of a member country has been massive inflows of funds from Albania, linked to the pyramid savings scandal. Investigations following the suspicious transaction reports have shown that considerable amounts in cash, around US$ 20 million, were deposited at banks in a neighbouring country during the summer of 1997. This is a problem which affects several FATF members. In addition, after the deliberate failures of many banks in Bulgaria, triggered by their owners' corruption, they were bought up by groups of white-collar criminals who could then help themselves to the bank assets.

84. Some progress has nonetheless been made in adopting and implementing counter-measures over the past year. The Czech Republic, Slovakia, Hungary and Slovenia have developed anti-laundering programmes, and now have financial intelligence units in operation. But the anti-money laundering Bill tabled in the Russian Parliament in late 1996 has still not been passed.

85. In the summer of 1997 the Central Bank of the Russian Federation issued guidelines to banks on customer identification and the prevention of money laundering. Together with FATF it organised an international seminar on money laundering in St. Petersburg in October 1997. But these efforts will only yield really practical results when the anti-laundering obligations of the financial sector are spelt out in law.

86. Reference should finally be made to a vital recent initiative by the Council of Europe, which launched its programme to evaluate anti-laundering measures in those of its members which do not belong to FATF. The countries in question are not all in Central and Eastern Europe, but the programme should give a considerable boost to enhancing or introducing anti-laundering legislation in that part of the world over the coming years.

V. Conclusions

87. The November 1997 meeting of the group of experts on typologies was marked by a new form of discussion, with in-depth treatment of more targeted topics than in previous exercises. Since the classic mechanisms for laundering are now well identified, the purpose will in future be to survey the new ground being broken by imaginative launderers, and to demonstrate how and why given new laundering practices are being developed. In short, the FATF's strategy needs to be tailored to the emergence of new areas which are not yet fully mapped: electronic money and new-technology forms of payment, non-financial professions, the insurance sector and stock exchange dealers.

88. In addition to laundering via non-financial professions and companies, which is the main subject for the FATF-IX typology exercise, the experts also examined issues relating to companies specialising in international money transfers, and new-technology means of payment. These are both essential areas that FATF needs to understand more fully in order to develop effective counter-measures. With regard to new technology, much work still has to be done before all the related laundering dangers are clearly identified and before any possible specific counter-measures can be considered. Even at present, the speed at which transactions are performed in this sector, admittedly an advance in itself, poses grave threats to the adequacy of the traditional anti-laundering methods to the systems of new payment technologies. As a result, this topic is likely to recur systematically at forthcoming typology meetings. With regard to companies specialising in international money transfers, consideration and action are both much further advanced, to judge from the scale of counter-measures already in place in many FATF member countries. This is in fact an area where exchanges of information on current regulations, and of practical experience, can no doubt be of benefit to those countries which have not yet really tackled the problem.

89. Among other typologies of interest, particular reference should be made to the gold market. While this is not a new topic, discussions showed that it was an area where FATF should also expend energy in order to identify the problems more clearly. It is accordingly planned to make this a priority item for one of the forthcoming typology exercises. In any case, although FATF has already devoted considerable attention to sectors such as insurance or manual currency exchange, the involvement of both in money

laundering is still clearly on the increase. With regard to the exchange bureaux sector, it is clear that further consideration must be given to the consequences of the conversion of European currencies into Euro.

90. Last, the survey of laundering trends in non-Member countries again proved most instructive. Although progress is being made in implementing anti-laundering measures outside the FATF members, much still remains to be done to mobilise a fair number of countries which remain somewhat passive and complacent about the financial, economic, political and social dangers posed by laundering.

12 February 1998

ANNEXES TO THE 1997-1998 FATF REPORT ON MONEY LAUNDERING TYPOLOGIES

Selected cases of money laundering

Case no. 1

Real Estate agents and Notaries

Facts

A real estate agent in a tax haven jurisdiction opened an account at a bank in a European country. The account was used to encash a cheque drawn by a foreign notary. Once the cheque had cleared, part of the funds were withdrawn as cash, part were re-transferred back to the original jurisdiction, and the balance was credited to the account of a notary in that country and used to purchase real property there.

The information that was acquired from the police authorities showed that the different persons involved in the transactions had been involved in fraud. Although the system put in place by the perpetrators appeared to be legal, inquiries showed that the account opened at the bank was only used as a temporary transfer account for the laundering of the proceeds of financial crime.

Results

The financial intelligence unit transferred the case to the judicial authorities, on the basis of the serious indications of money laundering.

Lessons

1. This case shows the need to be vigilant when considering possible money laundering cases, as even transactions which initially do not appear to be particularly suspicious can involve money laundering.

2. It also shows the importance of the "know your customer principle", since the criminal past of the persons involved in this case was the only indicator which led to the discovery that the transactions in this case involved money laundering.

Case no. 2

Shell Corporations

Facts

A drug trafficker used drug trafficking proceeds to purchase a property of which part was paid in cash and the remainder was obtained through a mortgage. He then sold the property to a shell corporation, which he controlled, for a nominal sum. The corporation then sold the property to an innocent third party for the original purchase price. By this means the drug trafficker concealed his proceeds of crime in a shell corporation, and thereby attempted to disguise the origin of the original purchase funds.

Results

The accused pled guilty and an order of forfeiture was granted. The property which was part of the money laundering scheme is being disposed of by the authorities.

Lessons

1. The need to carefully trace the ownership history of a property, in order to identify possible links between owners and any suspicious transfers that may indicate attempts to commingle assets.

2. The need for enforcement agencies to be familiar with the general rules and practice regarding the purchase of property in relevant jurisdictions, and the need to be aware that transfers involving nominal amounts can be easily structured in some jurisdictions.

Case no. 3

Cross border cash

Facts

Three suspicious transaction reports were received relating to a number of transactions which were carried out at Danish banks whereby large amounts of money were deposited into accounts and then withdrawn shortly afterwards as cash. The first report was received in August 1994, and concerned an account held by Mr. X. Upon initial investigation, the subjects of the reports (X, Y and Z) were not known in police databases as being connected to drugs or any other criminal activity. However further investigation showed that X had imported more than 3 tonnes of hashish into Denmark over a 9 year period. Y had assisted him on one occasion, whilst Z had assisted in laundering the money.

Most of the money was transported by Z as cash from Denmark to Luxembourg where X and Z held 16 accounts at different banks, or to Spain and subsequently Gibraltar, where they held 25 accounts. The receipts from the Danish banks for the withdrawn money were used as documentation to prove the legal origin of the money, when the money was deposited into banks in Gibraltar and Luxembourg. It turned out that sometimes the same receipt was used at several banks so that more cash could be deposited as ”legal” than had actually been through the Danish bank accounts.

Results

X and Y were arrested, prosecuted and convicted for drug trafficking offences and received sentences of six and two years imprisonment respectively. A confiscation order for the equivalent of US$ 6 million was

made against X. Z was convicted of drug money laundering involving US$ 1.3 million, and was sentenced to one year nine months imprisonment.

Lessons

1. Financial institutions should not accept proof of deposit to a bank account as being equivalent to proof of a legitimate origin.

2. Carrying illegal proceeds as cash across national borders remains an important method of money laundering.

Case no. 4

Lawyers

Facts

A prominent attorney operated a money laundering network which used sixteen domestic and international financial institutions, many of which were in offshore jurisdictions. The majority of his clients were law abiding citizens, however a number of clients were engaged in various types of fraud and tax evasion, and one client had committed an US$ 80 million insurance fraud. He charged his clients a flat fee to launder their money and to set up annuity packages to hide the laundering activity. In the event there were to be any inquiries by regulators or law enforcement officials, the attorney was prepared to give the appearance of legitimacy to any withdrawals from the "annuities".

One of the methods of laundering was for him to transfer funds from a client into one of his general accounts in the Caribbean. This account was linked to the attorney in name only, and he used it to commingle various client funds, before moving portions of the funds accumulated in the general account via wire transfers to accounts in other countries in the Caribbean. When a client needed funds, they could be transferred from these accounts to a U.S. account in the attorney's name or the client's name. The attorney indicated to his clients that they could "hide" behind the attorney-client privilege if they were ever investigated.

Another method of laundering funds was through the use of credit cards. He arranged for credit cards in false names to be issued to his clients, and the credit card issuer was not aware of the true identity of the individuals issued the cards. When funds were needed the client could use the credit card to make cash withdrawals at any automated teller machine in the United States. Once a month the Caribbean bank would debit the attorney's account in order to satisfy the charges incurred by his clients. The attorney knew the recipients of the credit cards.

Results

The attorney pleaded guilty to money laundering.

Lessons

1. Banks and their employees should be alert to "layered" wire transfers which utilise instructions such as "for further credit to". This may occur more frequently with correspondent accounts of "offshore banks". Suspicious transactions can then be identified and reported.

2. Banks should utilise "know your customer" requirements when issuing credit cards. In this case, the banks were issuing the credit cards to the attorney for further issuance to his clients.

3. Investigators should be aware that in a number of countries lawyer/attorney-client privilege is not applicable if the lawyer/attorney and his client were directly involved in criminal activity, and they should consult prosecutors if such an issue arises.

Case no. 5

Shell corporations and secretarial companies

Facts

During 1995/1996 financial institutions in a European country made suspicious transaction reports to the financial intelligence unit which receives such reports. The reports identified large cash deposits made to the banks which were exchanged for bank drafts made payable to a shell corporation based and operated from an Asian jurisdiction. The reports identified approximately US$ 1.6 million being transferred in this way to an account held by the shell corporation at a financial institution in the Asian jurisdiction.

At the same time police had been investigating a group in that country which were involved in importing drugs. In 1997 police managed to arrest several persons in the group, including the principal, who controlled the company in the Asian jurisdiction. They were charged with conspiring to import a large amount of cannabis. A financial investigation showed that the principal had made sizeable profits, and a large percentage of this has been traced and restrained. A total of approximately US$ 2 million was sent from the European country to the Asian jurisdiction, and subsequently transferred back to bank accounts in Europe, where it is now restrained.

Two methods were used to launder the money. The principal purchased a shell company in the Asian jurisdiction which was operated there by a secretarial company on his instructions. The shell company opened a bank account, which was used to receive cashiers orders and bank drafts which had been purchased for cash in the country of origin. The principal was also assisted by another person who controlled (through the same secretarial company) several companies, which were operated for both legitimate reasons and otherwise. This person laundered part of the proceeds by sending the funds on to several other jurisdictions, and used non-face to face banking (computer instructions from the original country) to do so.

Results

Seven persons including the principal are awaiting trial in the European country on charges of drug trafficking, and the principal and three other persons face money laundering charges.

Lessons

1. It shows how desirable and easy it is for criminals (even if not part of international organised crime) to use corporate entities in other jurisdictions, and to transfer illegal proceeds through several other jurisdictions in the hope of disguising the origin of the money.

2. It demonstrates the ease with which company incorporation services can be obtained, and shows that many of the companies which sell shelf/shell companies, as well as the secretarial companies which operate them, are not likely to be concerned about the purpose for which the shell company is used.

3. Highlights the need for financial institutions to have a system which identifies suspicious transactions not just at the front counter, but also for non-face to face transactions such as occurred in this case.

4. The length of time it can take to conduct international financial investigations and to trace the proceeds of crime transferred through several jurisdictions, and the consequent risk that the funds will be dissipated.

Case no. 6

Bureaux de change

Facts

A bureau de change ('The Counter') had been doing business in a small town near the German border for a number of years when exchange offices became regulated, and it became subject to obligations to prevent money laundering. The Counter often had a surplus of bank notes with a high denomination, and the owner (Peter) knew these notes were not popular and therefore had them exchanged into smaller denomination notes at a nearby bank. Prior to the legislation taking effect persons acting on behalf of The Counter regularly exchanged amounts in excess of the equivalent to US$ 50 000, but immediately after the legislation took effect the transactions were reduced to amounts of US$ 15 000 to US$ 30,000 per transaction. The employees of the bank branch soon noticed the dubious nature of the exchanges which did not have any sound economic reason, and the transaction were reported.

Peter had a record with the police relating to fencing and dealing in soft drugs, and because of this he transferred the ownership of The Counter to a new owner with no police record (Andre). Andre reports The Counter to the Central Bank as an exchange office and is accepted on a temporary basis. The financial intelligence unit consults various police files and establishes that the police have been observing this exchange office for some time. The suspect transactions are passed on to the crime squad in the town where The Counter has its office, and it starts an investigation. A few months later, the crime squad arrests Andre, house searches are made, expensive objects and an amount equivalent to more than US$ 250 000 in cash are seized. The records of The Counter show that many transactions were kept out of the official books and records. For example, over a period of thirteen months The Counter changed the equivalent of more than US$ 50 million at a foreign bank without registering these exchange transactions in the official books and records. The investigation showed that The Counter and its owners were working with a group of drug traffickers, which used the exchange office to launder their proceeds, and this formed a substantial part of the turnover of the business.

Results

The drug traffickers were prosecuted and convicted and are now serving long prison sentences. Andre was sentenced to six years in prison for laundering the proceeds of crime and forgery. Peter moved abroad with his family. A separate legal action is still pending to take away Andre's profits, the confiscated objects and the cash found. The Counter has been closed and its registration as an exchange office was refused.

Lessons

The need for banks and large, legitimate bureaux de change to pay attention to their business relations with smaller bureaux, particularly when supplying or exchanging currency with them.

Case no. 7

Lawyers, real estate

Facts

The financial intelligence unit received information that a previously convicted drug trafficker had made several investments in real estate and was planing to buy a hotel. An assessment of his financial situation did not reveal any legal source of income, and he was subsequently arrested and charged with an offence of money laundering. Further investigation substantiated the charge that part of the invested funds were proceeds of his own drug trafficking. He was charged with substantive drug trafficking, drug money laundering and other offences.

In the same case the criminal's lawyer received the equivalent of approximately US$ 70 000 cash from his client, placed this money in his client's bank account and later made payments and investments on the client's instructions. He was charged with negligent money laundering in relation to these transactions. Another part of the drug proceeds was laundered by a director of an art museum in a foreign country who received US$ 15 000 for producing forged documents for the sale of artworks which never took place.

Results

The drug trafficker was convicted of drug trafficking, was sentenced to seven and a half years imprisonment, and a confiscation order was made for US$ 450 000. The lawyer was convicted and sentenced to 10 months imprisonment. The art museum director could not be prosecuted as there was insufficient evidence that he knew the money was the proceeds of drug trafficking, but he has accepted a writ to confiscate his proceeds.

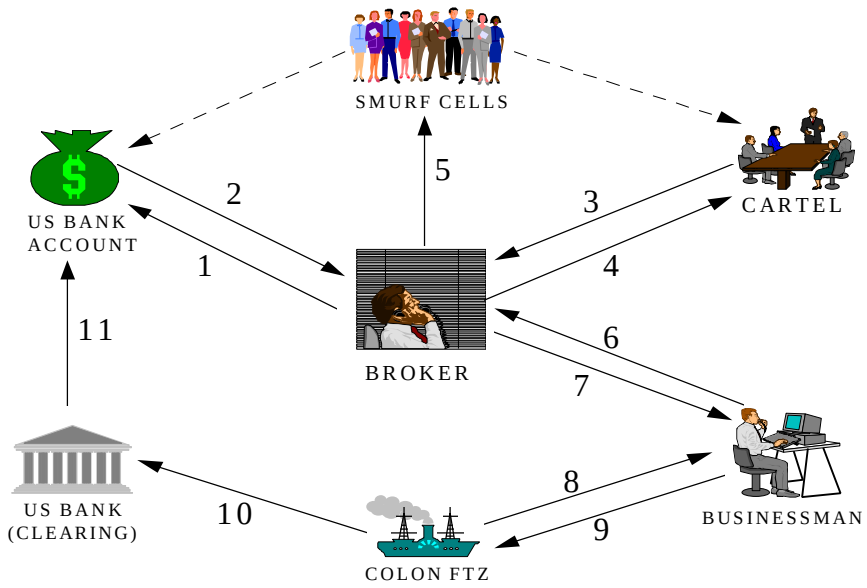
Lessons

1. The purchase of real estate is commonly used as part of the last stage of money laundering (integration). Such a purchase offers the criminal an investment which gives the appearance of financial stability, and the purchase of a hotel offers particular advantages, as it is often a cash intensive business.

2. The value of a money laundering offence with a lower scienter or mens rea requirement is shown in the prosecution of the lawyer in this case. There was insufficient evidence to prove that the lawyer knew the money was illegal drug proceeds, but sufficient evidence to show that he "should have known" on the facts available to him.

Case no. 8

Example of widely used money laundering technique - Colombian Black Market Peso Exchange, Casa de cambio, money laundering through trade, use of "shell accounts"



Drug traffickers in the U.S. collect and stockpile cash from illegal drug sales in "stash houses" located throughout the U.S. and this creates a logistical problem for the traffickers. The solution is as follows:

1. Black market money brokers in Colombia direct Colombians visiting or residing in the U.S. to open personal cheque accounts at U.S. banks, and deposit minimal amounts.

2. Cheques on these accounts are signed in blank by the customers and given to the brokers who pay them US$200-400 for each account. The brokers keep a stock of signed cheques on these "shell" U.S. accounts.

3. Colombian drug cartels sell their stockpiled cash at a parallel or "discounted" exchange rate to the Colombian money brokers in exchange for pesos which are paid in Columbia.

4. The brokers purchase the dollars at the discounted rate and the cartels lose a percentage of their profits but avoid the risks of laundering their own drug money.

5. Once the drug money is purchased, the broker directs his network *smurfs* to pick up the cash, and structure deposits into the various "shell" cheque accounts.

6. The broker then offers to sell cheques drawn on these accounts to legitimate Colombian businessmen (who need U.S. dollars to conduct international trade) at a "parallel" exchange rate.

7. The broker fills in the dollar amount on the signed cheque, but leaves the name of the payee blank. The broker also stamps his symbol on the cheque as a means to guarantee his payment on the cheque in the event there are ever insufficient funds in the "shell" checking account.

8. The businessman can then fill in the payees name when he uses the signed cheque as a U.S. dollar instrument to purchase goods (perfume, gold, etc.) in international markets such as Free Trade Zones.

9. The businessman then ships or smuggles the goods into Colombia.

10. The Free Trade Zone distributor, who is often a knowing participant in the black market exchange process, forwards the cheque to his U.S. bank account or it may even clear through his local bank account.

11. Once cleared, the cheque account is debited, and the distributor's U.S. account is credited.

Through this scheme:

Drug cartels in Colombia receive their profits from the U.S. drug trade in Columbia, without having the normal expenses of money laundering. The brokers make a profit on the "discounted" purchase of U.S. dollars from the drug cartels and a second profit on the subsequent sale of the dollars to Colombian businessmen at the "parallel exchange rate." The businessmen save money by exchanging their pesos for U.S. dollars on the "parallel" exchange market, and avoiding government scrutiny and taxes.

For more information about the Colombian Black Market Peso Exchange Process, visit the FinCEN Home Page at Http://www.ustreas.gov/treasury/bureaus/fincen. This information can be found in the advisory section.

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ANNEX D

FATF-IX SELF-ASSESSMENT SURVEY
COMPLIANCE WITH MANDATORY RECOMMENDATIONS ON LEGAL ISSUES

Recommendation No.	Members in compliance	Members in partial compliance	Other
1	23 (20)	-- (--)	3 (6)
2	25 (25)	1 (1)	-- (--)
3 et 34	23 (23)	2 (2)	1 (1)
4	23 (23)	3 (3)	-- (--)
5	26 (26)	-- (--)	-- (--)
7	21 (21)	5 (5)	-- (--)
32	26 (26)	-- (--)	-- (--)
33	20 (22)	2 (--)	4 (4)
36	23 (23)	3 (3)	-- (--)
37	23 (23)	3 (3)	-- (--)
38	18 (17)	5 (6)	3 (3)
39	19 (19)	-- (--)	7 (7)
40	23 (23)	2 (2)	1 (1)

Note

The figures in parenthesis indicate the number of members in the category in the 1996-1997 FATF-VIII survey.

FATF-IX SELF-ASSESSMENT SURVEY

COMPLIANCE WITH THE FORTY RECOMMENDATIONS ON FINANCIAL ISSUES

Recommendation		Members in Compliance	Members in Partial Compliance	Other
8 [n/a for 12 members]		12 (9)	2 (2)	-- (4)
9 [n/a for 4 members]		21 (18)	-- (1)	1 (3)
10	Banks	24 (24)	2 (2)	-- (--)
	NBFIs	20 (21)	6 (5)	-- (--)
11	Banks	23 (23)	1 (1)	2 (2)
	NBFI	22 (22)	1 (1)	3 (3)
12	Banks	26 (26)	-- (--)	-- (--)
	NBFIs	23 (23)	3 (3)	-- (--)
13		25 (15)	-- (11)	1 (--)
14	Banks	26 (26)	-- (--)	-- (--)
	NBFIs	18 (22)	5 (1)	3 (3)
15	Banks	25 (24)	-- (--)	1 (2)
	NBFIs	24 (23)	-- (--)	2 (3)
16	Banks	26 (26)	-- (--)	-- (--)
	NBFIs	26 (25)	-- (1)	-- (--)
17	Banks	25 (25)	1 (1)	-- (--)
	NBFIs	25 (24)	1 (--)	-- (2)
18	Banks	25 (25)	-- (--)	1 (1)
	NBFIs	24 (24)	-- (--)	2 (2)
19	Banks	23 (26)	3 (--)	-- (--)
	NBFIs	17 (19)	8 (5)	1 (2)
20	Banks [n/a - 2]	24 (18)	-- (6)	-- (--)
	NBFIs [n/a - 1]	21 (12)	3 (10)	1 (--)
21	Banks	22 (23)	3 (3)	1 (--)
	NBFIs	19 (19)	4 (6)	3 (1)
22		25 (22)	--	1 (4)
23		20 (17)	-- (2)	6 (7)

Recommendation		Members in Compliance	Members in Partial Compliance	Other
24		23 (22)	3 (4)	-- (--)
25		26 (19)	-- (6)	-- (--)
26	Banks	26 (26)	-- (--)	-- (--)
	NBFIs	25 (25)	1 (--)	-- (1)
27		11 (11)	-- (--)	15 (15)
28	Banks	24 (24)	-- (--)	2 (2)
	NBFIs	19 (14)	1 (6)	6 (6)
29	Banks	25 (26)	-- (--)	1 (--)
	NBFIs	19 (18)	6 (7)	1 (1)
30		12 (10)	7 (8)	7 (8)
32		20 (19)	5 (5)	1 (2)

Note

The figures in parenthesis indicate the number of members in the category in the 1996-1997 FATF-VIII survey.

NBFIs: Non-bank financial institutions.

ANNEX E

PROVIDING FEEDBACK TO REPORTING FINANCIAL INSTITUTIONS AND OTHER PERSONS

BEST PRACTICE GUIDELINES

I. INTRODUCTION

The importance of providing appropriate and timely feedback to financial and other institutions which report suspicious transactions has been stressed by industry representatives and recognised by the financial intelligence units (FIU) which receive such reports. Indeed, such information is valuable not just to those institutions, but also to their associations, to law enforcement and financial regulators and to other government bodies. However, the provision of general and specific feedback has both practical and legal implications which need to be taken into account.

2. It is recognised that ongoing law enforcement investigations should not be put at risk by disclosing inappropriate feedback information. Another important consideration is that some countries have strict secrecy laws which prevent their financial intelligence unit from disclosing any significant amount of feedback, or that more general privacy laws limit the feedback which can be given. However, those agencies which receive suspicious transaction reports should endeavour to design feedback mechanisms and procedures which are appropriate to their laws and administrative systems, which take into account such practical and legal limitations, and yet seek to provide an appropriate level of feedback. The limitations should not be used as an excuse to avoid providing feedback, though they may provide good reasons for using these guidelines in a flexible way so as to provide adequate levels of feedback for reporting institutions.

3. Based on the types and methods of feedback currently provided in a range of FATF member countries, this set of best practice guidelines will consider why providing feedback is necessary and important. The guidelines illustrate what is best practice in providing general feedback on money laundering and the results of suspicious transaction reports by setting out the different types of feedback and other information which could be provided and the methods for providing such feedback. The guidelines also address the issue of specific or case by case feedback and the conflicting considerations which affect the level of specific feedback which is provided in each country. The suggestions contained herein are not mandatory requirements, but are meant to provide assistance and guidance to financial intelligence units, law enforcement and other government bodies which are involved in the receipt, analysis and investigation of suspicious transaction reports, and in the provision of feedback on those reports.

II. WHY IS FEEDBACK ON SUSPICIOUS TRANSACTION REPORTS NEEDED

4. The reporting of suspicious transactions[4] by banks, non-bank financial institutions, and in some countries, other entities or persons, is now regarded as an essential element of the anti-money laundering program for every country. Recommendation 15 of the FATF forty Recommendations states :

> "15. If financial institutions suspect that funds stem from a criminal activity, they should be required to report promptly their suspicions to the competent authorities. "

5. Almost all FATF members have now implemented a mandatory system of reporting suspicious transactions, though the precise extent and form of the obligation varies from country to country. The requirement under Recommendation 15 is also supplemented by several other recommendations such as financial institutions and their staff should receive protection from criminal or civil liability for reports made in good faith (Recommendation 16), customers must not be tipped off about reports (Recommendation 17), and financial institutions should comply with instructions from the competent authorities in relation to reports (Recommendation 18).

6. It is recognised that measures to counter money laundering will be more effective if government ministries and agencies work in partnership with the financial sector. In relation to the reporting of suspicious transactions an important element of this partnership approach is the need to provide feedback to institutions or persons which report suspicious transactions. Financial regulators will also benefit from receiving certain feedback. There are compelling reasons why feedback should be provided :

- it enables reporting institutions to better educate their staff as to the transactions which are suspicious and which should be reported. This leads staff to make higher quality reports which are more likely to correctly identify transactions connected with criminal activity;

- it provides compliance officers of reporting institutions with important information and results, allowing them to better perform that part of their function which requires them to filter out reports made by staff which are not truly suspicious. The correct identification of transactions connected with money laundering or other types of crime allows a more efficient use of the resources of both the financial intelligence unit and the reporting institution;

- it also allows the institution to take appropriate action, e.g. to close the customer's account if he is convicted of an offence, or to clear his name if an investigation shows that there is nothing suspicious;

- it can lead to improved reporting and investigative procedures, and is often of benefit to the supervisory authorities which regulate the reporting institutions; and

- feedback is one of the ways in which government and law enforcement can contribute to the partnership with the financial sector, and it provides information which demonstrates to the financial sector that the resources and effort committed by them to reporting suspicious transactions are worthwhile, and results are obtained.

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[4] In some jurisdictions the obligation is to report unusual transactions, and these guidelines should be read so as to include unusual transactions within any references to suspicious transactions, where appropriate.

7. In many countries the obligation to report suspicious transactions only applies to financial institutions. Moreover, the experience in FATF members in which an obligation to report also applies to non-financial businesses or to all persons is that the vast majority of suspicious transactions reports are made by financial institutions, and in particular by banks. In recent years though, money laundering trends suggest that money launderers have moved away from strongly regulated institutions with higher levels of internal controls such as banks, towards less strongly regulated sectors such as the non-bank financial institution sector and non-financial businesses. In order to promote increased awareness and co-operation in these latter sectors, FIUs need to analyse trends and provide feedback on current trends and techniques to such institutions and businesses if a comprehensive anti-money laundering strategy is to be put in place. The empirical evidence suggests that where there is increased feedback to, and co-operation with, these other sectors, this leads to significantly increased numbers of suspicious transaction reports.

III. GENERAL FEEDBACK

(i) Types of feedback

8. Several forms of general feedback are currently provided, at both national and international levels. The type of feedback and the way in which it is provided in each country may vary because of such matters as obligations of secrecy or the number of reports being received by the FIU, but the following types of feedback are used in several countries :

(a) statistics on the number of disclosures, with appropriate breakdowns, and on the results of the disclosures;

(b) information on current techniques, methods and trends (sometimes called "typologies"); and

(c) sanitised examples of actual money laundering cases.

9. The underlying information on which general feedback can be based is either statistics relating to the number of suspicious transaction reports and the results achieved from those reports, or cases or investigations involving money laundering (whether or not the defendant is prosecuted for a money laundering offence or for the predicate offences). As these cases or investigations could result from a suspicious transaction report or from other sources of information, it is important that those agencies which provide feedback ensure that all relevant examples are included in the feedback they provide. It is also important that all relevant authorities, together with the reporting institutions, agree on the contents and form of sanitised cases, so as to prevent any subsequent difficulties to any institution or agency. It would also be beneficial if certain types of feedback, such as sanitised cases, are widely distributed, so that the benefits of this feedback are not restricted to the reporting institutions in that particular country.

(a) Statistics

What types of statistics should be made available?

10. Statistical information could be broken into at least two categories : (a) that which relates to the reports received and the breakdowns that can be made of this information, and (b) that

which relates to reports which lead to or assist in investigations, prosecutions or confiscation action. Examples of the types of statistics which could be retained are :

- Category (a) - detailed information on matters such as the number of suspicious transaction reports, the number of reports by sector or institution, the monetary value of such reports and files, and the geographic areas from which cases have been referred. Information could also be retained to give a breakdown of the types of institutions which reported and the types of transactions involved in the transactions reported.

- Category (b) - information on the investigation case files opened, the number of cases closed, and cases referred to the prosecution authorities. Breakdowns could also be given of the year in which the report was made, the types of crimes involved and the amount of money, as well as the nationality of the parties involved and which of the three stages of a money laundering operation (placement, layering or integration) the case related to. Where appropriate, statistics could also be kept on the reports which have a direct and positive intelligence value, and an indication given of the value of those reports. This is because reports which do not lead directly to a money laundering prosecution can still provide valuable information which may lead to prosecutions or confiscation proceedings at a later date (see paragraph 18).

11. A cross referencing of the different breakdowns of category (a) information with the types of results achieved under category (b) should enable FIUs and reporting institutions to identify those areas where reporting institutions are successfully identifying money laundering and other criminal activity. It would also identify, for example, those areas where institutions are not reporting or are reporting suspicions which lead to below average results. As such it would be a valuable tool for all concerned. However, as with any statistics, care needs to be taken in their interpretion, and in the weight that is accorded to each statistic. In order to extract the desired statistics efficiently it is of course necessary that the suspicious transaction report form, whether it is sent on paper or on-line, is designed to allow the appropriate breakdowns to be made. Given the difficulties that many countries have in gathering and analysing statistics, it is essential that the amount of human resources required for this task are minimised, and that maximum use is made of technology, even if this initially requires capital expenditure or other resource inputs.

How often should statistics be published?

12. Statistics are the most commonly provided form of feedback, and are usually included in annual reports or regular newsletters, such as those published by FIUs. Having regard to the resource implications of collecting and providing statistics, and to the other types of feedback available, the publication of an annual set of comprehensive statistics should provide adequate feedback in most countries.

13. It is recommended that :

- **statistics are kept on the suspicious transaction reports received and on the results obtained from those reports, and that appropriate breakdowns are made of the available information;**
- **the statistics on the reports received are cross referenced with the results so as to identify areas where money laundering and other criminal activity is being successfully detected;**
- **technological resources are used to their maximum potential; and**
- **comprehensive statistics are published at least once a year.**

(b) Current techniques, methods and trends

14. The description of current money laundering techniques and methods will be largely based on the cases transmitted to the prosecution authorities, and the division of such cases into the three stages of money laundering can make it easier to differentiate between the different techniques used, though it must of course be recognised that it is often difficult to categorically state that a transaction falls into one stage or another. If new methods or techniques are identified these should be described and identified, and reporting institutions advised of such methods as well as current money laundering trends. Information on current trends will be derived from prosecutions, investigations or the statistics referred to above, and could usefully be linked with those statistics. An accurate description of current trends will allow financial institutions to focus on areas of current risk and also future potential risk.

15. In addition to any reports that are prepared by national FIUs, there are a number of international organisations or groups which also prepare a report of trends and techniques, or hold an exercise to review such trends. The FATF holds an annual typologies exercise where law enforcement and regulatory experts from FATF members, as well as delegates from relevant observer organisations review and discuss current trends and future threats in relation to money laundering. A public report is then published which reviews the conclusions of the experts and the trends and techniques in FATF members and other countries, as well as considering a special topic in more detail. This report is available from the FATF or at the FATF Website (http://www.oecd.org/fatf/). In addition, Interpol publishes regular bulletins which contain sanitised case examples.

16. Other international groups such as the Asia/Pacific Group on Money Laundering, the Caribbean Financial Action Task Force (CFATF), and the Organisation of American States/Inter-American Drug Abuse Control Commission (OAS/CICAD) are holding or will also hold typologies exercises which could provide further information on the trends and techniques that are being used to launder money in the regions concerned. International trends could usefully be extracted and included in feedback supplied by national FIUs where they are particularly relevant, but in relation to more general information, reporting institutions should simply be made aware of how they can access such reports if they wish to. This will help to avoid information overload.

17. It is recommended that :

- **new money laundering methods or techniques, as well as trends in existing techniques are described and identified, and that financial and other institutions are advised of these trends and techniques;**

- **feedback on trends and techniques published by international bodies be extracted and included in feedback supplied by national FIUs only if it is particularly relevant, but that reporting institutions are made aware of how to access such reports.**

(c) Sanitised cases

18. This type of feedback is sometimes regarded by financial sector representatives as even more valuable than information on trends. Sanitised cases[5] are very helpful to compliance officers and front line staff, since they provide detailed examples of actual money laundering and the results of such cases, thus increasing the awareness of front line staff. Two examples of methods used to distribute this type of feedback are a quarterly newsletter and a database of sanitised cases. Both methods provide a set of sanitised cases which summarise the facts of the case, the inquiries made, and a brief summary of the results. A short section drawing out the lessons to be learnt from the case is also provided in the database. The length of the description of each case could vary from a paragraph outlining the case through to a longer and more detailed summary.

19. Care and consideration needs to be taken in choosing appropriate cases and in their sanitisation, in order to avoid any legal ramifications. In the countries which use such feedback, the examples used are generally cases which have been completed, either because the criminal proceedings are concluded or because the report was not found to be justified. Inclusion of cases where the report was unfounded can be just as helpful as those where the subject of the report was convicted of money laundering.

20. It is recommended that sanitised cases be published or made available to reporting institutions, and that each sanitised case could include :

- **a description of the facts;**
- **a brief summary of the result of the case;**
- **where appropriate, a description of the inquiries made by the FIU; and**
- **a description of the lessons to be learnt from the reporting and investigative procedures that were adopted in the case. Such lessons can be helpful not only to financial institutions and their staff, but also to law enforcement investigators.**

(ii) <u>Other information which could be provided</u>

21. In addition to general feedback of the types referred to above, there are other types of information which can be distributed to financial and other institutions using the same methods. Often this information is provided in guidance notes or annual reports, but it provides essential background information for the staff of reporting institutions, and also keeps them up to date on current issues. Examples of such other information include :

- **an explanation of why money laundering takes place, a description of the money laundering process and the three stages of money laundering**, **including practical examples;**
- **an explanation of the legal obligation to report, to whom it applies and the sanctions (if any) for failing to report**;

- **the procedures and processes by which reports are made, analysed, and investigated, and by which feedback is provided**. This allows FIUs to provide information on matters such as the length of time it can take for a criminal proceeding to be finalised or to explain that even though not every report results in a prosecution for money laundering, the report could be used

[5] Sanitised cases are cases which have had all specific identifying features removed.

as evidence or intelligence which contributes to a prosecution for a criminal offence, or provides other valuable intelligence information;

- **a summary of any legislative changes** that may have been recently made in relation to the reporting regime or money laundering offences;

- **a description of current and/or future challenges for the FIU.**

(iii) Feedback Methods

22. ***Written Feedback*** - As noted above, two of the most popular methods of providing general feedback are through annual reports and regular newsletters or circulars. As noted above, annual reports could usefully contain sets of statistics and a description of money laundering trends. A short (for example, four page) newsletter or circular which is published on a regular basis two or four times a year provides continuity of contact with reporting institutions. It could contain sanitised cases, legislative updates or information on current issues or money laundering methods.

23. ***Meetings*** - There are a range of other ways in which feedback is provided to the bodies or persons who report. Most FIU provide such feedback through face to face meetings with financial institutions, either for a specific institution and its staff, or for a broader range of institutions. Seminars, conferences and workshops are commonly used to provide training for financial institutions and their staff, and this provides a forum in which feedback is provided as part of the training and education process. Several countries have also established working or liaison groups combining the FIU which receives the reports and representatives of the financial sector. These groups can also include the financial regulator or representatives of law enforcement agencies, and provide a regular channel of communication through which feedback and other topics such as reporting procedures, can be discussed. Finally, staff of FIUs could use meetings with individual compliance officers as an opportunity to provide general feedback.

24. ***Video*** - many countries and financial institutions or their associations have published an educational video as part of their overall anti-money laundering training and education process. Such a method of communication provides an opportunity for direct feedback to front line staff and could include material on sanitised cases, money laundering methods and other information.

25. ***Electronic information systems*** - obtaining information from Websites, other electronic databases or through electronic message systems has the advantage of speed, increased efficiency, reduced operating costs and better accessibility to relevant information. While the need for appropriate confidentiality and security must be maintained, consideration should be given to providing increasing feedback through a password protected or secure Website or database, or by electronic mail**.**

26. When deciding on the methods of general feedback that are to be used, each country will have to take into account the views of the reporting institutions as to degree to which reporting of suspicious or unusual transactions should be made public knowledge. For example, in some countries, the banks have no objection to sanitised cases becoming public information, in part because of the objective and transparent nature of the reporting system. However, in other countries, financial institutions would like to receive this type of feedback, but do not want it made available to the public as a whole. Such differing views mean that slightly different approaches may need to be taken in each country.

IV. SPECIFIC OR CASE BY CASE FEEDBACK

27. Reporting institutions and their associations welcome prompt and timely information on the results of reports of suspicious transactions, not only so they can improve the processes of their member institutions for identifying suspicious transactions, but also so they can take appropriate action in relation to the customer. There is concern that by keeping a customer's account open after a suspicious transaction report has been made the institution may be increasing its vulnerability with respect to monies owed to them by the customer. However specific feedback is much more difficult to provide than general feedback, for both legal and practical reasons.

28. One of the primary concerns is that ongoing law enforcement investigations should not be put at risk by providing specific feedback information to the reporting institution at a stage prior to the conclusion of the case. Another practical concern is the question of the resource implications and the best and most efficient method for providing such feedback, which will often depend on the amount of reports received by the FIU. Legal issues in some countries relate to strict secrecy laws which prevent the FIU from disclosing specific feedback, or concern general privacy laws which limit the feedback which can be provided. Finally, financial institutions are also concerned about the degree to which such feedback becomes public knowledge, and the need to ensure the safety of their staff and protect them from being called as witnesses who have to give evidence in court concerning the disclosure. This was dealt with in one country by a specific legislative amendment which prohibits suspicious transaction reports being put in evidence or even referred to in court.

29. Given these limitations and concerns, current feedback information provided by receiving agencies to reporting institutions on specific cases is more limited than general feedback. The only information which appears to be provided in most countries is an acknowledgement of receipt of the suspicious transaction report. In some countries this is provided through an automatic, computer generated response, which would be the most efficient method of responding. The other form of specific feedback which is relied on in many countries is informal feedback through unofficial contacts. Often this is based on the police officer or prosecutor who is investigating the case following up the initial report, and serving the reporting institution with a search warrant, or some other form of compulsory court order requiring further information to be produced. Although this gives the institution some further feedback information, it will only be interim information not showing the result of the case, and the institution is left uncertain as to when it will receive this information.

30. Depending on the degree to which the practical and legal considerations referred to in paragraph 28 apply in each country, other types of specific feedback are provided - this includes regular advice on cases that are closed, information on whether a case has been passed on for investigation and the name of the investigating police officer or district, and advice on the result of a case when it is concluded. In most countries, feedback is not normally provided during the pendancy of any investigation involving the report.

31. Having regard to current practice and the concerns identified above, and taking into account the requirements imposed by any national secrecy or privacy legislation, and subject to other limitations such as risk to the investigation and resource implications, it is recommended that whenever possible, the following specific feedback is provided (and that

time limits could also be determined by appropriate authorities so that it is assured that the feedback is timely), namely that :

a) receipt of the report should be acknowledged by the FIU;

b) if the report will be subject to a fuller investigation, the institution could be advised of the agency that will investigate the report, if the agency does not believe this would adversely affect the investigation; and

c) if a case is closed or completed, whether because of a concluded prosecution, because the report was found to relate to a legitimate transaction or for other reasons, then the institution should receive information on that decision or result;

V. CONCLUSION

32. In relation to both specific and general feedback, it is necessary that an efficient system exists for determining whether the report led or contributed to a positive result, whether by way of prosecution or confiscation, or through it's intelligence value. Whatever the administrative structure of the government agencies involved in collecting intelligence or investigating and prosecuting criminality it is essential that whichever agency is responsible for providing feedback receives the information and results upon which that feedback is based. If the FIU which receives the report is the body responsible, this will usually require the investigating officers or the prosecutor to provide the FIU with feedback on the results in a timely and efficient way. One method of efficiently achieving this could be through the use of a standard reporting form, combined with a set distribution list. Failure to provide such information will make the feedback received by reporting institutions far less accurate or valuable.

33. It is clear that there is considerable diversity in the volume, types and methods of general and specific feedback currently being provided. The types and methods of feedback are undoubtedly improving, and many countries are working closely with their financial sectors to try to increase the amount of feedback and reduce any limitations, but it is clear that the provision of feedback is still at an early stage of development in most countries. Further co-operative exchange of information and ideas is thus necessary for the partnership between FIUs, law enforcement and the financial sector to work more effectively, and for countries to provide not only an increased level of feedback, but also where feasible, greater uniformity.

2 June 1998